

LFC Requester:**Jonas Armstrong**

**AGENCY BILL ANALYSIS
2016 REGULAR SESSION**

WITHIN 24 HOURS OF BILL POSTING, EMAIL ANALYSIS TO:

LFC@NMLEGIS.GOV

and

DFA@STATE.NM.US

{Include the bill no. in the email subject line, e.g., HB2, and only attach one bill analysis and related documentation per email message}

SECTION I: GENERAL INFORMATION

{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}

Check all that apply:

Original X **Amendment**
Correction **Substitute**

Date Jan. 26, 2016

Bill No: SB120

Sponsor: Sen. Joseph Cervantes

Agency Code: 305

Short Lower Rio Grande Water

Person Writing Sarah Bond, AAG

Title: Works Rights & Liens

Phone: 827-7481 **Email** sbond@nmag.gov

SECTION II: FISCAL IMPACT

APPROPRIATION (dollars in thousands)

Appropriation		Recurring or Nonrecurring	Fund Affected
FY16	FY17		

(Parenthesis () Indicate Expenditure Decreases)

REVENUE (dollars in thousands)

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY16	FY17	FY18		

(Parenthesis () Indicate Expenditure Decreases)

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY16	FY17	FY18	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis () Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:
Duplicates/Relates to Appropriation in the General Appropriation Act

SECTION III: NARRATIVE**BILL SUMMARY**

This analysis is neither a formal Attorney General's Opinion nor an Attorney General's Advisory Letter. This is a staff analysis in response to an agency's, committee's, or legislator's request.

Synopsis:

SB 120 addresses how water rights may be commingled with new merging components in the Lower Rio Grande, and further provides how liens may be noticed and effected by the Lower Rio Grande Public Works Authority.

Section 1.M amends existing statutes relating to the Lower Rio Grande Public Water Authority, NMSA 73-26-1 (1978) to require the Authority to file a notice of lien in the office of the county clerk when it files a lien on property for nonpayment of money owed.

The notice is required to contain the customary information regarding the facts and circumstances of the lien.

Section 1.N allows a lien to include multiple charges or assessments in the same notice, and bears interest at 12% per year unless otherwise provided by law.

Section 1.O. provides that such liens are first in priority subject only to the prior liens of the state and county for taxes; and provides procedures for releasing the lien.

Section 1.P, Q, and R. provide procedures for judicial foreclosure of the liens, including provision for award of attorneys' fees, enforcement of liens, and application of proceeds of liens to costs, indebtedness, and to the former owner of the property foreclosed upon.

FISCAL IMPLICATIONS

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

SIGNIFICANT ISSUES

SB 120 may create an internal inconsistency in the administration of water rights of mutual domestics that in the future merge with the named entities in the Authority. Specifically, SB 120 Section 1.D. adds language that may conflict with existing requirements for combining and commingling water rights of merged entities, and which may conflict with other language already in the statute.

Section 1.D, p. 3, adds language that appears to be duplicative to language earlier in the section

regarding the requirement to obtain the state engineer's approval to combine and commingle water rights and service area. It is not clear how this is intended to be understood given the earlier line provision of §1.D unconditionally requiring the application be filed. This Amendment should be eliminated from the Bill to avoid conflict with the existing statute and current procedure.

PERFORMANCE IMPLICATIONS

N/A

ADMINISTRATIVE IMPLICATIONS

N/A

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

N/A

TECHNICAL ISSUES

OTHER SUBSTANTIVE ISSUES

The confusing language added to section 1.D could be deleted to avoid ambiguity.

ALTERNATIVES

N/A

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo

AMENDMENTS